

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
Western Division**

CAROL MCMURRAN, et al.,

Plaintiffs,

CASE NO. 3:20-cv-338

JUDGE

vs.

NATIONAL RAILROAD PASSENGER  
CORPORATION d/b/a AMTRAK.

Defendant.

**NOTICE OF REMOVAL**

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Removing party, Defendant National Railroad Passenger Corporation d/b/a Amtrak (hereinafter “Amtrak”), by and through its undersigned counsel, respectfully states that:

1. Removing party is the only named defendant in the above-named action.
2. On December 11, 2019, the above-referenced action was commenced against removing party in the Court of Common Pleas of Lucas County, Ohio, and is now pending in such court as case number G-4801-CI-0201904724-000.
3. Plaintiffs are citizens and residents of the State of New Jersey and Defendant Amtrak is considered a citizen only of the District of Columbia pursuant to 49 U.S.C. § 24301(b).
4. Defendant Amtrak is a corporation created by an Act of Congress and more than half of its capital stock shares are owned by the government of the United States of America.
5. Pursuant to 49 U.S.C. § 24301(b), “Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business.” It also

provides, “The principal office and place of business of Amtrak are in the District of Columbia.” (A copy of 49 U.S.C. § 24301 is attached hereto as **Exhibit A**).

6. Amtrak’s website reiterates that federal law requires parties to serve Amtrak by certified mail to: Eleanor D. Acheson Chief Legal Officer, General Counsel & Corporate Secretary, 1 Massachusetts Avenue NW, Washington, D.C. 20001. (*See* “Service of Legal Documents” AMTRAK, <https://assistive.amtrak.com/h5/assistive/r/www.amtrak.com/about-amtrak/service-of-legal-documents.html> (last accessed February 14, 2020) attached hereto as **Exhibit B**).
7. On December 17, 2019, certified mail containing a copy of the Complaint and Summons for the above-referenced matter was delivered to the Amtrak station at 415 Emerald Ave., Toledo, Ohio 43604 and signed for by one Peter Dieringer, an unauthorized representative. (*See* **Exhibit C** attached hereto).
8. On February 13, 2020, in a telephone conversation with Plaintiffs’ counsel’s office, an Amtrak claims representative, Ana Robertson, learned that suit had been filed on December 12, 2019. Following that conversation, Plaintiffs’ counsel’s office e-mailed a copy of the summons, complaint, and certified mail card to claims representative Robertson at her office in Beech Grove, Indiana. (*See* email correspondence attached hereto as **Exhibit D**).
9. Amtrak now has knowledge of the lawsuit and has obtained a copy of the summons and complaint. However, service of process is deficient and insufficient.
10. This notice is filed with this court within 30 days after delivery to the removing party of the Summons and Complaint in the above-referenced action.
11. The above-referenced matter is a civil action for negligence resulting from an alleged breach by defendant of its duties as a passenger railroad service. Although not specifically outlined in

the Complaint, Defendant believes the amount-in-controversy to exceed the statutory minimum for invoking federal diversity jurisdiction.

12. This court has original federal question jurisdiction of the above-referenced action pursuant to 28 U.S.C. §§ 1331, 1349, and therefore the action may be removed to this court pursuant to 28 U.S.C. § 1441(b).
13. This court also has original diversity jurisdiction of the above-referenced action pursuant to 28 U.S.C. § 1332, and therefore the action may be removed to this court pursuant to 28 U.S.C. § 1441(a).
14. Copies of all state court process, pleadings, and orders in the above-referenced action are attached hereto as **Exhibits C, E & F**.
15. On the date set forth below, a copy of this notice is being served on Plaintiffs' attorney. On that same date, a copy of this notice is also being filed with the Clerk of the Lucas County Court of Common Pleas, the forum in which the action was commenced.

**WHEREFORE**, removing party requests that the above-referenced action be removed from the Lucas County Court of Common Pleas to this Court.

Respectfully submitted,

s/Richard F. Ellenberger  
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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of February, 2020, a copy of the foregoing has been served on the Clerk of the Lucas County Court of Common Pleas and on Plaintiffs, through their named counsel, by regular U.S. mail at:

Brian Reddy  
The Reddy Law Firm  
427 W. Dussel Drive  
Maumee, Ohio 43537  
*Counsel for Plaintiffs*

Respectfully submitted,

*s/Richard F. Ellenberger*  
Richard F. Ellenberger (0016463)